

Planning Commission Hearing Minutes  
DATE: February 13, 2017

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Barbara Nicklas - Chair  Arlene Perkins – Vice Chair  Kelly Russell – Alderman & Secretary  Ron Burns  Katie Isaac  Alan Imhoff – Alternate		Zack Kershner, Director of Public Works  Gabrielle Collard, Division Manager of Current Planning  Cherian Eapen, Traffic Engineer  Scott Waxter, Assistant City Attorney  Pam Reppert, City Planner  Grace Bogdan, City Planner  Tierre Butler, City Planner  Jessica Murphy, Administrative Assistant

I. **ANNOUNCEMENTS:**

Ms. Collard announced that the workshop for February would be held on the Tuesday, the 21<sup>st</sup> due to the holiday and that at the upcoming Mayor and Board workshop, Dave Whittaker from Frederick County, would be presenting on Liveable Frederick.

II. **APPROVAL OF MINUTES:**

Approval of the **December 19, 2016** Workshop Minutes as amended:

**MOTION:** Commissioner Perkins

**SECOND:** Commissioner Isaac

**VOTE:** 5-0.

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Approval of the **January 6, 2017** Planning Commission Minutes as amended:

**MOTION:** Commissioner Perkins

**SECOND:** Commissioner Isaac

**VOTE:** 5-0.

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Approval of the **January 9, 2017** Planning Commission Minutes as amended:

**MOTION: Commissioner Perkins**

**SECOND: Commissioner Isaac**

**VOTE: 5-0.**

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Approval of the **January 17, 2017** Workshop Minutes as amended:

**MOTION: Commissioner Perkins**

**SECOND: Commissioner Burns**

**VOTE: 5-0.**

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The February 10, 2017 Field Trip Minutes were tabled by the Planning Commission till the March hearing to allow time to review.

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**III. PUBLIC HEARING-SWEARING IN:**

*"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Planning Commission will be the whole truth and nothing but the truth." If so, answer "I do".*

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**IV. PUBLIC HEARING-CONSENT ITEMS:**

(All matters included under the Consent Agenda are considered to be routine by the Planning Commission. They will be enacted by one motion in the form listed below, without separate discussion of each item, unless any person present – Planning Commissioner, Planning Staff or citizen -- requests an item or items to be removed from the Consent Agenda. Any item removed from the Consent Agenda will be considered separately at the end of the Consent Agenda. If you would like any of the items below considered separately, please say so when the Planning Commission Chairman announces the Consent Agenda.)

**A. PC16-960FSU, Final Subdivision Plat, 462 W. South Street, KAI Properties**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the consent agenda.

**SECOND:** Commissioner Perkins

**VOTE:** 5-0.

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**V. MISCELLANEOUS:**

**B. Capital Improvement Program, FY2018-2023**

Ms. Collard entered the entire staff report into the record. There was no public comment on this item.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Perkins moved to approve the draft recommendation letter with the additional language recommended by Staff.

**SECOND:** Commissioner Burns

**VOTE:** 5-0.

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**C. PC16-787FSU, Final Subdivision Plat, Mount Olivet Cemetery**

Ms. Collard entered the entire staff report into the record. There was no public comment on this item.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve PC16-787FSU for the consolidation of parcels at 511 and 515 S Market Street finding that:

- 1) The resulting lots are in compliance with all the applicable standards of Articles 4, 6, 7, and 8,
- 2) The plat is consistent with the Land Use Map of the 2010 Comprehensive Plan; and
- 3) That there are no new roads proposed and that the existing roads and their rights of way are consistent with the transportation element of the Comprehensive Plan.

With the following condition:

- 1) That a right of way encroachment agreement be executed with the City for any private improvements that will still remain within the public right-of- way to the corner of South Market Street/Stadium Drive intersection, once the new plat is executed.

**SECOND:** Commissioner Perkins

**VOTE:** 5-0.

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**VI. NEW BUSINESS**

**D. PC16-790FSI, Final Site Plan, Royal Farms, Riverside Lot 206**

Ms. Reppert entered the entire staff report into the record. There was no public comment on this item.

**PLANNING COMMISSION ACTION: Section 607(h)**

**MOTION:** Commissioner Perkins moved to approve the modification for PC16-790FSI to Section 607(h) of the Land Management Code (LMC) entitled, Parking and Loading Standards, to provide 9'x20' loading space(s) for Phases 1 and 2 finding that:

1. The modification will not be contrary to the purpose and intent of the Code as the site will provide adequate loading spaces for the anticipated uses; and
2. The modification is consistent with the Environment Element of the 2010 Comprehensive Plan; and
3. That designing the site to reflect the actual anticipated needs of the tenants minimizes unnecessary impervious areas without compromising the functioning of the site.

**SECOND:** Commissioner Isaac

**VOTE:** 5-0.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Perkins moved to approve PC16-790FSI for Riverside Lot 206 in accordance with applicable provisions of Articles 4, 6, 7 and 8 of the LMC and all other provisions incorporated therein, based on the findings that the site plan is consistent with the approved master plan and that the site is adequately served by public facilities with the following conditions to be met:

1. Correct Signage Note 11 to reflect maximum wall signage/canopy for Phase 1 is 159 s.f. and Phase 2 maximum wall signage is 408 s.f. Please be advised that two 100 s.f. freestanding signs and maximum wall signage allotments slightly exceed the 756 s.f. maximum lot amount permitted and signage amounts will need to comply at building permit.
2. The planting list on the landscaping plan indicates 35 trees, however 34 are shown on the drawing itself. Verify the number of trees provided on site per Section 605(c)(5), correct as necessary.
3. Add previous site plan case number and approval date.
4. Correct typo in Note 21 "the".
5. Complete Note 27 with approval date.
6. Update Plan History Note 13 with previous final site plan PC12-835FSI and approval date.
7. Add a note to provide TIS approval date.
8. Provide elevations depicted in Exhibit A for architectural detailing on rear façade, including siding on rear gable.
9. Add furniture elements to elevation sheets and label outdoor furniture on drawing sheet 2.
10. Identify pedestrian pathways through the site with pattern or shading for onsite identification to be installed, such as brush colored concrete.
11. Provide directional signage for fuel trucks to Gas House Pike entrance and appropriate "do not enter for trucks traffic" signage into Spires Way.

**SECOND:** Commissioner Isaac

**VOTE:** 5-0.

**E. PC16-791FSI, Final Site Plan, Poet's Walk**

Ms. Bogdan entered the entire staff report into the record. There was no public comment on this item.

**PLANNING COMMISSION ACTION: Section 605(e)**

**MOTION:** Commissioner Perkins moved to approve modification for PC16-791FSI to Section 605(e) Landscape Buffers and Berms, to the requirement of 20' buffer and construction of a fence, berm, or wall along the property line adjacent to PRK zoning district finding that:

1. The modification will not be contrary to the purpose and intent of the Code as the buffer required by the Code will be provided on the adjacent City Golf Course property through a landscape easement;
2. The modification is consistent with the 2010 Comprehensive Plan specifically Land Use Element Policy 1 as the proposed modification will screen the service area of the proposed use, but still allow views to the Golf Course as the nursing home/domiciliary care/adult living facility is compatible with the adjacent City Golf Course; and
3. The inclusion of a 20' easement on the City Golf Course property to allow the landscape buffer and four sided architecture are sufficient compensating features to meet the overall objectives of the Landscape Buffers and Berms requirements.

**SECOND:** Commissioner Burns

**VOTE:** 5-0.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Perkins moved to approve PC16-791FSI for the change in designation of land uses on the Master Plan, finding that:

1. The amount and percentage of commercial development on the site will not increase from the Master Plan approval; and
2. This amendment will not cause any land use component of the Riverside Corporate Park MXE to be changed by more than 25% of the land area previously designated for that particular component. This amendment will result in a decrease existing commercial land use by 18.2% and increase employment by 2.5%.

**SECOND:** Commissioner Burns

**VOTE:** 5-0.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve PC16-791FSI in accordance with the applicable provisions of Articles 4, 6, 7, and 8 of the LMC and all other provisions incorporated therein, based on the findings that the site plan is consistent with the approved master plan and that site is adequately served by public facilities, with the following conditions to be met:

1. All applicable easements including the landscaping easement granted to the Property on the City Golf Course, the easement on the Property to the City for the existing golf tee, and the easement along the frontage of the Property along Gas House Pike to the City for road improvements must be executed.
2. The dedication plat for the right of way along Monocacy Blvd and Gas House Pike must be recorded.
3. Submit four copies of the final Phase 1 Archeological Report to the Planning Department.
4. A note must be added to the plan indicating that subject to the Engineering Departments approval at the time of improvement plan review, directional signage will be provided to separate vehicular and truck traffic onsite and to caution truck traffic against blocking onsite intersections.

**SECOND:** Commissioner Perkins

**VOTE:** 5-0.

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**F. PC16-792PFCP, Preliminary Forest Conservation Plan, Poet's Walk**

Ms. Bogdan entered the entire staff report into the record. There was no public comment on this item.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Perkins moved to approve PC16-792PFCP for the following modification to Section 721(d)(2)C, Retention Priority - Modifications, to remove eight specimen trees finding that:

1. Retention of all specimen trees that are scattered throughout the site would cause an unwarranted hardship and an inability to reasonably develop;
2. The enforcement of this section will deprive the applicant of rights commonly enjoyed by others in similar areas because the site is heavily wooded and retention of all specimen trees would render the site undevelopable;
3. Granting of this modification would not confer on the Applicant a special privilege that would be denied to other Applicants as the Preliminary Forest Conservation Plan will preserve more forest than required by the Forest Conservation Act and complies with all other regulations;
4. This modification request is not based on conditions that are the result of actions by the Applicant;
5. The request is not due to a condition relating to the land of a neighboring property as all the specimen trees to be removed are located on the subject property;
6. The granting of this modification would not adversely affect water quality as the site has been designed to avoid the Monocacy River to provide as large a riparian buffer as possible and according to the current Environmentally Sensitive Design (ESD) requirements of the State of Maryland.

**SECOND:** Commissioner Isaac

**VOTE:** 5-0.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve PC16-792PFCP Preliminary Forest Conservation Plan for unconditional approval of in accordance with Section 721 of the LMC and the State Forest Conservation Act.

**SECOND:** Commissioner Perkins

**VOTE:** 5-0.

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**G. PC16-1013ZMA, Zoning Map Amendment, 200 E. 2<sup>nd</sup> Street, The Visitation Academy**

Ms. Bogdan entered the entire staff report into the record. There was no public comment on this item.

**PLANNING COMMISSION ACTION:**

This is the first of two required public hearings and as such, no action is required at this time.

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**H. PC16-561ZMA, Zoning Map Amendment, Walnut and Locust Street and Linden Avenue Properties**

Ms. Butler entered the entire staff report into the record. There was public comment on this item.

Tim Jacobson of 7 Linden Avenue advised that the process has been unbelievably frustrating. He applied for a building permit to get a mud room, and at the time he was told that his property is nonconforming. They felt he was at fault for that and needed to do something to fix the problem. He felt the Planning Department should have taken accountability and rectified the error immediately. He advised it's taken a year and a half to get to the Planning Commission, and that this affects other houses as well. He hopes he will not have to pay for a building permit again once the zoning is corrected.

**PLANNING COMMISSION ACTION:**

This is the first of two required public hearings and as such, no action is required at this time.

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**I. PC16-981ZTA, Zoning Text Amendment, Subdivision Regulations**

Ms. Collard entered the entire staff report into the record. There was public comment on this item.

Noel Manalo, with Miles & Stockbridge, spoke on his own behalf. He commented that now that the City has an APFO as part of the approval process, it's often drives the timing for a lot of things specifically in regards to preliminary plans and final plats. He would like the Commission to consider the timing in the APFO as a guide. He advised that now that there are provisions for extensions, it will help to work through the process. He commented about NAC meetings becoming mandatory for final plats and questioned if it may add additional time to the process.

Eric Soter, with Rodgers Consulting, spoke on his own behalf. He commented about the proposed language in Section 506(b)(3) which indicates that roads shall be improved to City standards. His

concern was for a prior master plan or a preliminary plan that already had some design modifications and recommended that language be added to address that so the plan would not get held up on a technicality in the improvement plan phase.

Brian Morris, with Matan Companies, spoke on his own behalf. He commented about Page 13 in regards to the phased subdivisions and advised that reducing the amount of time from 2 years to 1 year can be a stretch, which he is not in favor of. He also commented about Page 14 in regards to the 6 month extension and had questions about the process for further extensions.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Perkins moved to continue PC16-981ZTA till the next Planning Commission Hearing.

**SECOND:** Commissioner Nicklas

**VOTE:** 2-3. (Motion Denied)

**MOTION:** Commissioner Burns moved to recommend approval of the draft revisions dated December 12, 2016 with the amendment to Section 504(e) as contained in the staff report dated February 8, 2017 and with the recommendation that the Mayor and Board give consideration to the follow two provisions:

1. The appropriateness of extending the timeframe for which an applicant must file final plats for subsequent phases of a preliminary plat beyond one year as provided under Section 504(e)(1)(A).
2. That Section 506(b)(3) be further revised to indicate that roads shown on a subdivision plat shall be improved to City standards unless otherwise modified by the Commission.

**SECOND:** Commissioner Perkins

**VOTE:** 5-0.

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**Meeting approximately adjourned at 9:15pm**

Respectfully Submitted,

Jessica Murphy  
Administrative Assistant